

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TANEISHA LAIMONT, et al.,

Plaintiffs,

v.

RAMDE RAKESH, et al.,

Defendants.

Case No. 20-cv-04702-VC

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION TO
DISMISS**

Re: Dkt. No. 50

The defendants' motion to dismiss is granted as to the retaliation claim and denied as to the claim under California Penal Code § 496.

The retaliation claim is clearly time-barred based on the facts alleged. The complaint alleges that the plaintiffs received a 60-day notice of termination on April 15, 2019, and that they vacated the unit "on or about" June 2019. The complaint was filed on July 14, 2020. Regardless of whether the statute of limitations began upon receipt of the 60-day notice or upon moving out of the unit, the complaint was filed more than one year later, and this claim is thus time-barred. *See Altamirano v. Matsu, LLC*, 2013 WL 12404713, at *6-7 (C.D. Cal. Jan. 7, 2013). Dismissal of this claim is with leave to amend.


The defendants' motion to dismiss the section 496 claim is denied. The plaintiffs appear to have the better argument, based on the statutory language, that this section applies to fraudulently induced payments as well as trafficked goods. *See Switzer v. Wood*, 35 Cal. App. 5th 116, 125-132 (2019). But the California Supreme Court has granted review in a case that will address this issue, and provide guidance on whether section 496 applies to the defendants' conduct here. *See Siry Investment v. Farkhondehpour*, 468 P.3d 701, Case No. S262081 (Cal. 2020). The claim will thus be allowed to proceed for now, without prejudice to the defendants

raising the same argument in a motion for summary judgment, or in a motion for judgment on the pleadings when the California Supreme Court issues its opinion.

Any amended complaint is due no later than June 11, 2021. A response (either to the amended complaint or to the current version if no amended complaint is filed) is due no later than June 17, 2021.

IT IS SO ORDERED.

Dated: May 28, 2021



VINCE CHHABRIA
United States District Judge